

§ 4.211

(4) The original and copies of all wills in the Superintendent's custody, if any; the original and copies of codicils to and revocations of wills, if any; and any paper, instrument, or document that purports to be a will;

(5) The Superintendent shall transmit to the administrative law judge all creditors' and other claims which have been filed and, thereafter, he shall transmit all additional claims immediately upon the filing thereof.

(c) Where a tribe has the statutory option to purchase interests of a decedent, the Superintendent shall include in the data specified in paragraph (b) of this section with respect to each probable heir or devisee a showing of the enrollment status in all cases and, where required by statute, the blood quantum in the tribe concerned, and such information as listed shall constitute prima facie evidence of the facts there shown. The inventory shall be verified by the title plant designated under § 4.236(b) that it is complete and accurate.

[36 FR 7186, Apr. 15, 1971, as amended at 36 FR 24813, Dec. 23, 1971; 45 FR 50331, July 29, 1980; 54 FR 8329, Feb. 28, 1989; 55 FR 43132, Oct. 26, 1990]

§ 4.211 Notice.

(a) An administrative law judge may receive and hear proofs at a hearing to determine the heirs of a deceased Indian or probate his will only after he has caused notice of the time and place of the hearing to be posted at least 20 days in five or more conspicuous places in the vicinity of the designated place of hearing, and he may cause postings in such other places and reservations as he deems appropriate. A certificate showing the date and place of posting shall be signed by the person or official who performs the act.

(b) The administrative law judge shall serve or cause to be served a copy of the notice on each party in interest reported to the administrative law judge and on each attesting witness if a will is offered:

(1) By personal service in sufficient time in advance of the date of the hearing to enable the person served to attend the hearing; or

(2) By mail, addressed to the person at his last known address, in sufficient

43 CFR Subtitle A (10-1-97 Edition)

time in advance of the date of the hearing to enable the addressee served to attend the hearing. The administrative law judge shall cause a certificate, as to the date and manner of such mailing, to be made on the record copy of the notice.

(c) All parties in interest, known and unknown, including creditors, shall be bound by the decision based on such hearing if they lived within the vicinity of any place of posting during the posting period, whether they had actual notice of the hearing or not. As to those not within the vicinity of the place of posting, a rebuttable presumption of actual notice shall arise upon the mailing of such notice at a reasonable time prior to the hearing, unless the said notice is returned by the postal service to the administrative law judge's office unclaimed by the addressee.

(d) *Tribes to be charged with notice of death and probate.* When a record reveals that a Tribe has a statutory option to purchase interests of a decedent, such Tribe shall be notified of the pendency of a proceeding by the judge having probate jurisdiction in such proceeding, and the judge's certificate of mailing of notice of probate hearing or of a final decision in probate to the Tribe at its record address shall be conclusive evidence for all purposes that the Tribe had notice of decedent's death and notice of the pendency of the probate proceedings.

[36 FR 7186, Apr. 15, 1971, as amended at 39 FR 31636, Aug. 30, 1974]

§ 4.212 Contents of notice.

(a) In the notice of hearing, the administrative law judge shall specify that at the stated time and place he will take testimony to determine the heirs of the deceased person (naming him) and, if a will is offered for probate, testimony as to the validity of the will describing it by date. The notice shall name all known presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice shall cite this subpart as the authority and jurisdiction for holding the hearing, and